IN RE: PETITION FOR SPECIAL EXCEPTION ZONING COMMISSIONER \* OF BALTIMORE COUNTY

\* CASE No. 92-270-X

## \*\*\*\*\*\*\*

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Exception for that property located on Commerce Drive, and known as a part of the Beltway Business Community. Within the Petition, the property owner seeks approval to construct a golf driving range and baseball batting range as an interim income producing use, pursuant to Section 248.4.A of the Baltimore County Zoning Regulations (B.C.Z.R.).

Appearing at the public hearing held for this matter was Gary J. Swatko, on behalf of the property owner, BBC Associates. The Petitioner was represented by Paige Wingert, Esquire, of Venable, Baetjer and Howard. Also appearing in support of the Petition was Frederick Chadsey, the Engineer who prepared Petitioner's Exhibit No. 1. the plat to accompany the

Proffered testimony presented at the hearing was that the subject site was rezoned to M.L.R. and M.L.-I.M. in October of 1992 during the last Comprehensive Zoning Process by the County Council. Further, the site is approximately 22.51 acres in area. It is located immediately adjacent to the Baltimore Beltway (I-695) between Washington Boulevard and I-95. The Petitioner indicated that the property has already proceeded through the

development process and obtained approval for office/warehouse use. However, due to the current economic downturn, the property owner has deferred its plans for construction until a buyer or long term tenant can be secured. In the meantime, the developer wishes to use the property for a golf driving range and baseball batting range so as to provide an income during the interim.

It is to be particularly noted that the developer has already obtained a grading permit and has done preliminary site work to prepare the property for development. That is, Commerce Drive has been constructed and a portion of the storm water management system installed. Thus, physical development and expense related thereto in using the property for the purposes enumerated in the special exception will be minimal.

It is to be further noted that a neighboring property owned by the Petitioner was approved for the identical special exception use under case No. 92-480-X. However, owing to certain site constraints, and following the rezoning of the subject property, the Petitioner has decided that the golf driving range/baseball batting range facility should be located on the

Section 248.4.A. of the B.C.Z.R. permits the use proposed by a special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requireset forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighbor-

hood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location, described by Petitioner's Exhibit 1, would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1. 432 A2d 1319 (1981).

The proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted as more fully described

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this day of March, 1993 that the Petition for Special Exception for permission to construct a golf driving range and baseball batting range as an interim income producing use on the site, in accordance with Petitioner's Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which is a condition precedent to the relief granted herein:

> The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever

Petitioner

Petition. There were no Protestants present.

**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

March 18, 1993

Paige Wingert, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, Maryland 21204

> RE: Petition for Special Exception Case No. 93-270-X BBC Associates

Dear Ms. Wingert:

Enclosed please find the decision rendered in the above captioned case. The Petition for Special Exception has been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Zoning Commissioner

cc: Mr. Gary J. Swatko BBC Associates

Petition for Special Exception to the Zoning Commissioner of Baltimore County for the property located at Commerce Drive, Baltimore, Maryland which is presently sound MLR + ML-IM

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for a golf driving range and baseball batting range as an interim income producing use, pursuant to Section 248.4.A of the Baltimore County Zoning Regulations.

Property is to be posted and advertised as prescribed by Zoning Regulations.	
I, or we, agree to pay expenses of above Special Exception advertising, poeting, etc., upon filing of this petition, and further agree to	80
are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County	mh

	Whe do estiminly declare and affirm, under the panelties of perjury, that the are the tagal owner(s) of the property which is the subject of this Petition.
xt Purchaser(Laceco:	Legal Cuner(s):
r (Print Name)	by: Gery J. Swatko
•	(Type or Print Name)
State Zpcode	Signature
	2066 Lord Baltimore Drive 298-2600
y for Publicaer:	Address Phone No.
B. Howard	Baltimore, Maryland / 21207
6811	City State Zpcode Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.
ble, Baetjer and Howard	John B. Howard
Allegheny Avenue 494-6200	Years 210 Allegheny Avenue Towson, Maryland 21204 494-6200
Phone No.	Address Phone No.
on, Maryland 21204	OFFICE LINE ONLY
	ESTIMATED LENGTH OF HEARING

GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC. 658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Beginning for the same at a point designated BD8, having Baltimore County Metroplitan Distance coordinates of South 17882,76 and West 15826.74 and being on the southwestern side of Commerce Drive, 70 feet wide, shown on a Plat entitled "Lots 3 & 4 BELTWAY BUSINESS COMMUNITY a Resubdivision of and Addition to Lot 1 Beltway Business Community formerly - S.M. 59 folio 51", dated March 30, 1990, recorded among the Plat Records of Baltimore County, Maryland in Plat Book S.M. 62 folio 12, said point of beginning also being located North 79 degrees 27 minutes 29 seconds West 177.56 feet from the intersection formed by the centerline of said Commerce Drive, 70 feet wide, with the centerline of Baltimore Washington Boulevard, U.S. Route 1, running thence leaving said point of beginning, binding on the outline of Lot 3 shown on said Plat. the three following courses:

1) South 12 degrees 30 minutes 23 seconds West 15.44 feet, 2) North 89 degrees 50 minutes 25 seconds West 736.60 feet and 3) South 43 degrees 55 minutes 35 seconds West 560.42 feet, running thence continuing to bind on the outline of Lot 3 shown on said Plat, for part of the distance binding on the Baltimore Beltway, I-695 and for part of the distance binding on the ramp from I-695 to I-95,

4) North 46 degrees 19 minutes 58 seconds West 60.00 feet, 5) North 51 degrees 23 minutes 58 seconds West 100.00 feet, 6) North 38 degrees 44 minutes 48 seconds West 158.33 feet, 7) North 14 degrees 31 minutes 08 seconds West 109.66 feet,

9) North 05 degrees 52 minutes 15 seconds East 159.24 feet and 10) North 06 degrees 09 minutes 25 seconds East 62.69 feet. running thence continuing to bind on the outline of Lot 3 shown on said

12) North 55 degrees 25 minutes 57 seconds East 450.46 feet, 13) North 54 degrees 30 minutes 44 seconds East 27.66 feet and 14) North 85 degrees 01 minutes 09 seconds East 63.65 feet,

15) southeasterly by a curve to the left having a radius of 1235.00 feet for a distance of 554.70 feet, said curve being subtended by a chord bearing South 17 degrees 50 minutes 52

feet for a distance of 535,47 feet, said curve being subtended by a chord bearing South 47 degrees 21 minutes 04 seconds East 527.98 feet and

17) South 63 degrees 59 minutes 14 seconds East 182.79 feet to Containing 21.6342 acres of land more or less.

(NOTE: THE ABOVE DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED FOR CONVEYANCES OR AGREEMENTS)

reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original

> Zoning Commissioner for Baltimore County

11/1/10-

osted for: Special Exception	Date of Posting 1777/93
witteen D'BC Associates	7 
	20 Priva p 177, 20' N/130/10 Nosh 13/11
of fatitions:	The for land on the forth
Marky:	

CERTIFICATE OF PUBLICATION

TOWSON, MD., February 26, 1993 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published

35

\$ 128.63

Description to accompany a Special Exception, GOLF DRIVING RANGE/BATTING RANGE. Beltway Business Community, Lot 3, containing 21.6342 acres of land more or less.

the seven following courses:

8) North 25 degrees 33 minutes 34 seconds West 381,36 feet,

Plat, the four following courses:

11) North 59 degrees 13 minutes 14 seconds East 396.13 feet.

running thence binding on the southwestern side of said Commerce Drive, the three following courses:

seconds East 550.05 feet. 16) southeasterly by a curve to the left having a radius of 922,09

Baltimore County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

DATE: 3 1 93

2066 Lord Beltimore Drive Baltimore, Haryland 21297

RE: CASE MUMBER: 33-270-X (Item 276) W/S Commerce Drive, 177.56' N of Baltimore Washington Boulevard Lot #3, Beltway Business Community 13th Election District - 1st Councilmenic Petitioner(s): BBC Associates HEARING: WEDNESDAY, MARCH 17, 1993 at 9:00 a.m. in Rm. 106, Office Building.

Dear Petitioner(s):

captioned property and bearing date.

THIS FEE HOST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE

Please forward your check via return smil to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Touson, Haryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Baltimore County Government Office of Zoning Administration and Development Management

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesspeaks Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Weshington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-270-X (Item 276) W/S Commerce Drive, 177.56' N of Baltimore Washington Boulevard Lot #3, Beltway Business Community 13th Election District - 1st Councilmanic Petitioner(s): BBC Associates HEARING: WEDNESDAY, MARCH 17, 1993 at 9:00 a.m. in Rm. 106, Office Building.

Special Exception for a golf driving range and baseball batting range as an interim income producing use.

111 West Chesapeake Avenue

Towson, MD 21204

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Maryland Department of Transportation

Development Management

PURE TO HEARTHS FEES

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111 West Chescheake Avenue

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O. James Lighthizer Hal Kassoff

Account: R-001-6150

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\$300.00

2-19-93

Ms. Julie Winiarski Item No.: + 276 (JLL) Zoning Administration and Development Management County Office Building

Dear Ms. Winiarski:

111 W. Chesapeake Avenue

Towson, Maryland 21204

Room 109

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

My telephone number is 410-333-1350 Teletypewriter for impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Caivert St., Baltimore, Maryland 21203-0717 BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: February 25, 1993 Arnold Jablon, Director Zoning Administration and

Pat Keller, Deputy Director

Office of Planning and Zoning

Development Management

Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s): Item No. 275, 276 and 281.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

PK/JL:lw

275.ZAC/ZAC1

Attachment

43-270-X 3-17-93

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director Zoning Administration and

DATE: March 8, 1993

Development Management

FROM: J. Lawrence Pilson Development Coordinator, DEPRM

SUBJECT: Zoning Item #276 Beltway Business Community Zoning Advisory Committee Meeting of 2/22/93

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

If the change in use requires the proposal to be re-submitted through the Development Process, than the site must comply with the Forest Conservation Act which requires a Forest Stand Delineation, a Forest Conservation Plan and a completed Forest Conservation Worksheet.

JLP:rmp

ZON.276/GWRMP

Baltimore County Government Office of Zoning Administration and Development Management



March 5, 1993

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

John B. Howard, Esquire Venable, Baetjer and Howard 210 Allegheny Avenue Towson, MD 21204

> RE: Case No. 93-270-X, Item No. 276 Petitioner: BBC Associates Petition for Special Exception

Dear Mr. Howard:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on February 8, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Paige Wingert - VB+H

PICK CHADSEY - G.W. Stephens

93-270 X 3-17-93

**Baltimore County Government** Fire Department

700 East Joppa Road Suite 901 Towson, MD 21286-5500

MARCH 2, 1993

(410) 887 4500

Arnold Jablon Director Zoning Administration and Development Management Baltimore County Office Puilding Towson, MD 21204

RE: Property Owner: BBC ASSOCIATES

LOT #3 BELTWAY BUSINESS COMMUNITY Location:

+276(JLL) Zoning Agenda: FEBRUARY 22, 1993 Item No.:

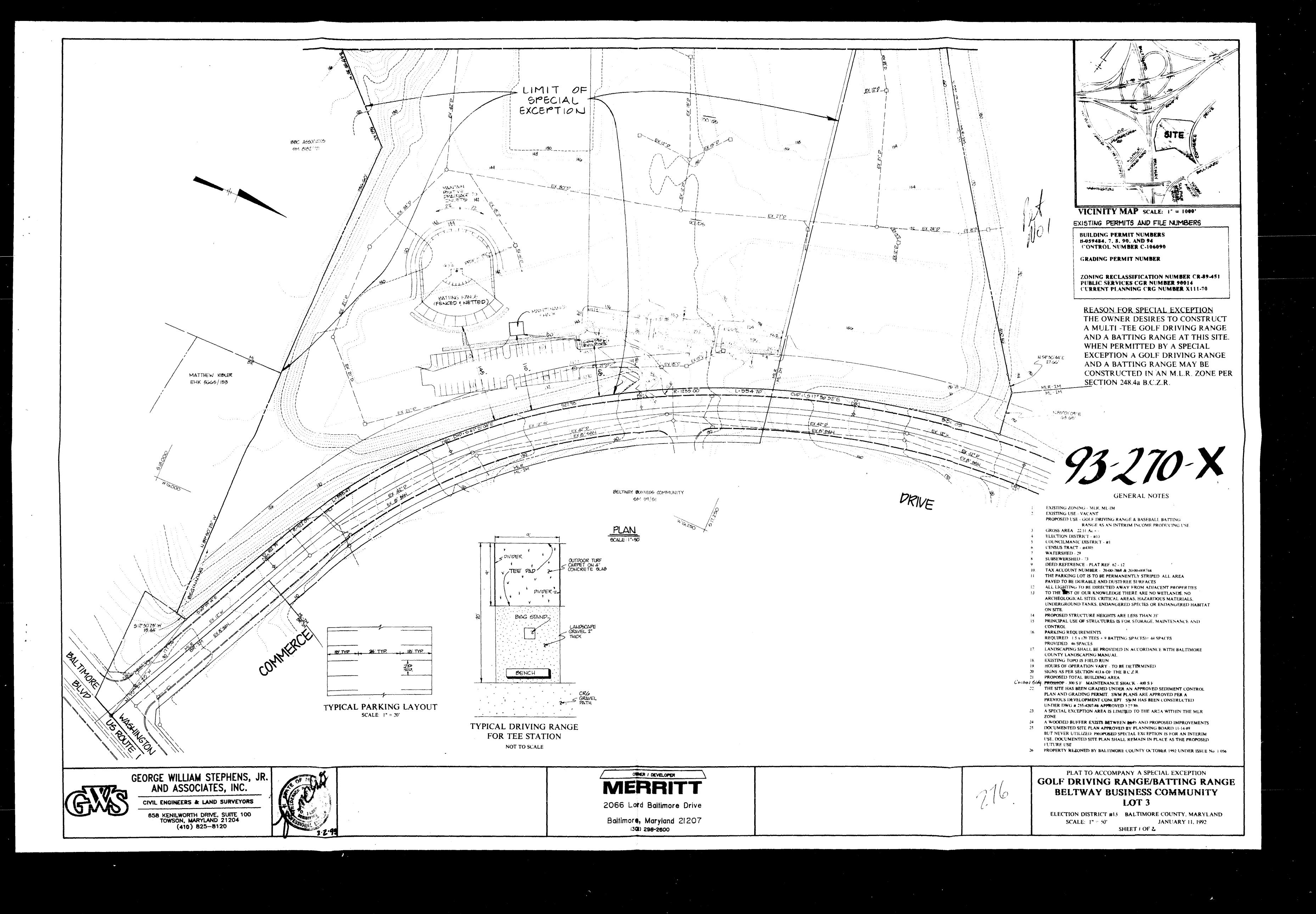
Gentlemen:

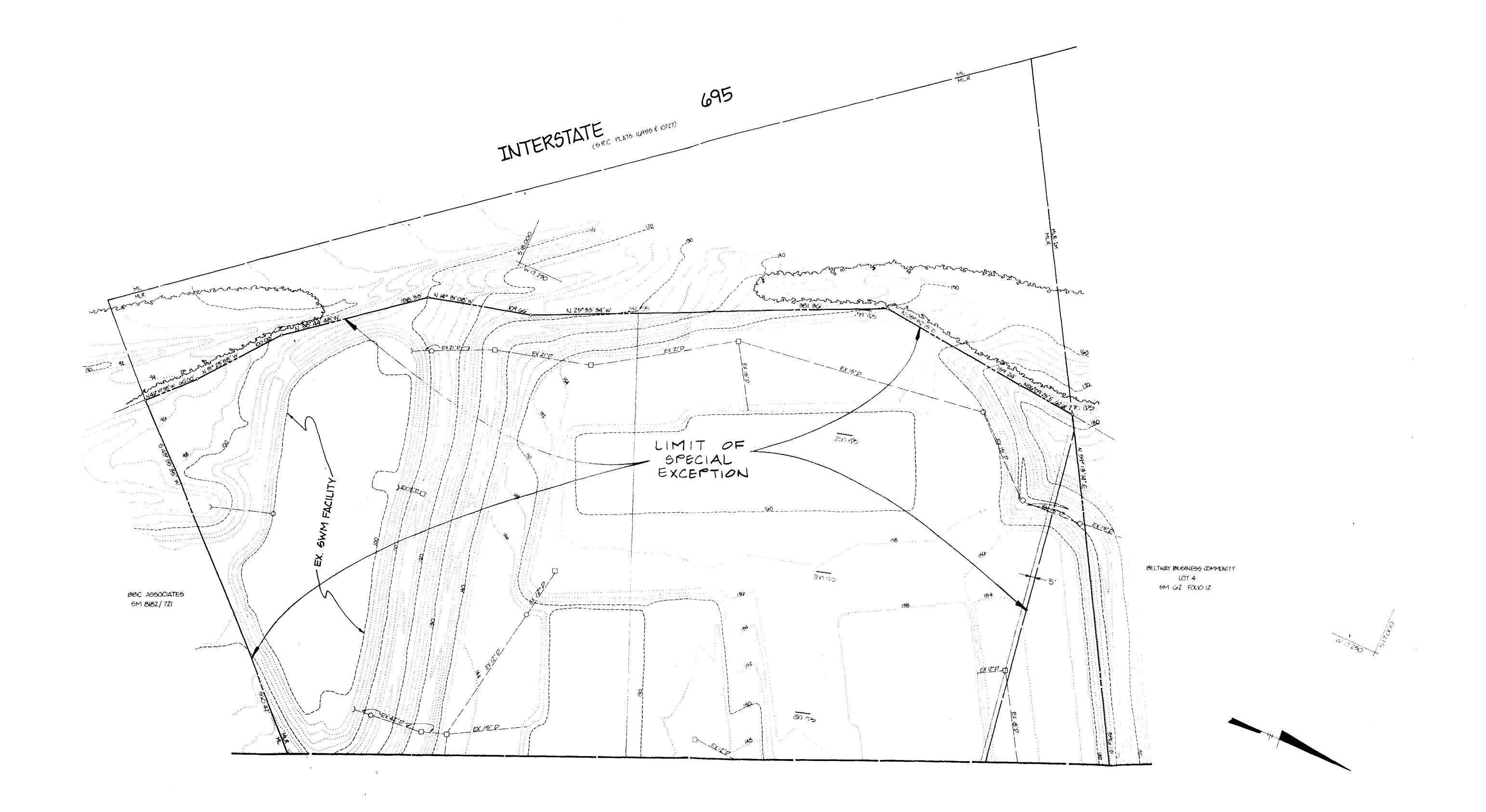
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt Planning Group Special Inspection Division

JP/KEKH





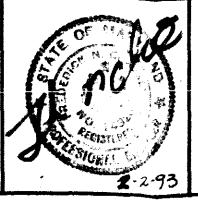
93-270-X



GEORGE WILLIAM STEPHENS, JR. AND ASSOCIATES, INC.

CIVIL ENGINEERS & LAND SURVEYORS

658 KENILWORTH DRIVE, SUITE 100 TOWSON, MARYLAND 21204 (410) 825-8120



OWER / DEVELOPER

MERRITT

2066 Lord Baltimore Drive

Baltimore Maryland 21207

PLAT TO ACCOMPANY A SPECIAL EXCEPTION 'GOLF DRIVING RANGE/BATTING RANGE BELTWAY BUSINESS COMMUNITY LOT 3

ELECTION DISTRICT #13 BALTIMORE COUNTY, MARYLAND SCALE: 1" = 50' JANUARY 11, 1992 SHEET **COF** 2

A3-210 X